

IMPORTANT ANNOUNCEMENT for LICENSED COMMERCIAL EMPLOYMENT AGENCIES and PRINCIPAL AGENTS

Changes to Chapter 373, Hawaii Revised Statutes ("HRS"), relating to Commercial Employment Agencies, were approved by the Governor on April 12, 2002. Act 22, SLH 2002, makes amendments to the law which repeal unnecessary regulatory requirements, clarify licensing requirements, and align the program with current administrative practices for regulatory licenses.

The main provisions of Act 22 are:

- **Only commercial employment agencies that collect fees from applicants are required to post the \$5000 statutory bond**

This change promotes regulatory effectiveness by requiring only those agencies that collect fees from applicants (consumers) to post a bond, since only these agencies may pose a risk for consumers;

- **Licensure of branch offices is repealed**

The Act reduces regulatory and financial burdens on businesses by repealing licensure of branch offices without compromising consumer protection, since licensure of branch offices offers no enhanced regulatory benefit to consumers, and since amended language clarifying a principal agent's supervision responsibilities over the agency's employees will preserve consumer protection;

- **Annual filing of Placement Fee Schedule is repealed**

The repeal of this requirement reduces the regulatory burden on the licensee. It is sufficient to make an initial filing followed by updated filings as needed;

- **No business shall be conducted from a home, apartment, hotel room, or other place that may be considered not in the public interest**

Act 22 codifies this practice currently in the administrative rules and emphasizes its importance. This statutory amendment provides a more direct authority to achieve the desired result.

- **An applicant's resume is an extension of the applicant**

The Act clarifies that, as such, prohibitions against agencies sending an applicant for employment without a bona fide job order from a prospective employer likewise apply to the applicant's resume. Modern technology, including broadcast faxes and email make this clarification necessary to protect applicant consumers from having a resume sent to employers via broadcast emails or faxes without their knowledge and

having to pay subsequent fees to the employment agency for a job the applicant believed was obtained by their own means;

- **Financial integrity, honesty, truthfulness, and fair dealing requirement**

Act 22 provides more specific legislative authorization by codifying long-standing licensing policies that applicants for licensure possess a reputation for honesty, truthfulness, financial integrity, and fair dealing, and shall not have been convicted of a felony directly related to the operation of a commercial employment agency unless the conviction has been annulled or expunged; and

- **60 days to replace Principal Agent without jeopardizing agency license**

The Act provides a more flexible timeframe for agencies when changing principal agents. The 60-day window will facilitate uninterrupted service by allowing agencies to remain open for business during the interim transition upon the death or dissociation of its principal agent.

**FOR COMPLETE INFORMATION ON THE CHANGES TO CHAPTER 373, HRS,
CHECK THE PROGRAM'S WEBSITE:**

www.state.hi.us/dcca/pvl/areas_employment_agency.html

or **CALL THE PROGRAM'S OFFICE AT:** (808) 586-2696

**FOR THE COMPLETE TEXT OF ACT 22, CHECK THE STATE LEGISLATURE'S
WEBSITE:**

www.capitol.hawaii.gov

Select "Status and Documents"; request the text for "SB2734".

**IN ADDITION,
TWO NEW ONLINE SERVICES ARE AVAILABLE FROM THE DEPARTMENT:**

www.ehawaii.gov/org/serv/pvl Search for professional and vocational licenses

www.ehawaii.gov/org/serv/rico Search for business and licensee complaints history

REQUIREMENTS FOR LICENSE - EMPLOYMENT AGENCY

Access this form via website at: www.state.hi.us/dcca/pvl

Retain this sheet for future reference.

All employment agencies are required to hold an employment agency license. All licensed employment agencies are required to have in its employ a currently licensed principal agent. Two licenses must be in force at all times, one for the agency and one for the principal agent. Should two new applications for license be submitted, one for the agency and one for the principal agent, licenses will be issued when requirements for both licenses have been met.

APPLICATION

Complete the application form, "Application for License - Employment Agency" in dark ink. Please print legibly.

• **Failure to provide all the requested information will delay the processing of your application.**

ENTITY REGISTRATION: CORPORATION/ PARTNERSHIP/ LLC or LLP

If the application is for a corporation, partnership, LLC or LLP we will require the following proof to show that the entity is properly registered with the Business Registration Division (BREG), Department of Commerce and Consumer Affairs, State of Hawaii, P. O. Box 40, Honolulu, 96810. *(Please write to them for the proper forms, call (808) 586-2727, or visit their website at: www.businessregistrations.com to order Certificates of Good Standing, forms, etc.):*

If the entity has been registered in this State for LESS THAN (1) YEAR, **ATTACH** a "**filed-stamped**" copy of the document filed with BREG; or one of the certificates mentioned below.

If the entity has been registered in this State for MORE THAN ONE (1) YEAR, **ATTACH** a current "**Certificate of Good Standing**" or "**Certificate of Qualification**" issued not more than one (1) year ago.

FEES

Attach the appropriate fees. Make check payable to: **COMMERCE & CONSUMER AFFAIRS**.

If you expect to be licensed from July 1 of an even-numbered year
to June 30 of an odd-numbered year, pay\$230
(Application fee - \$50* + License fee - \$60 + Compliance Resolution
Fund - \$70 + 1/2 Renewal - \$50)

If you expect to be licensed from July 1 of an odd-numbered year
to June 30 of an even-numbered year, pay\$145**
(Application fee - \$50* + License fee - \$60 + Compliance Resolution Fund - \$35)

*Application fee is not refundable.

**License subject to renewal by June 30 of an even-numbered year.

Note: One of the numerous legal requirements that you must meet in order for your new license to issue is the payment of fees as set forth in this application. You may be sent a license certificate before the check you sent us for your required fees clears your bank. If your check is returned to us unpaid, you will have failed to pay the required license fee and your license will not be valid, and you **may not** do business under that license. Also, a \$15.00 service fee will be charged for checks which are returned by the bank.

If for any reason you are denied the license you are applying for, you may be entitled to a hearing as provided by the Hawaii Administrative Rules, Title 16, Chapter 201, and/or Hawaii Revised Statutes. Your written request for a hearing should be directed to the agency that issues your license and must be received within 60 days of the date that your application license is denied.

PRINCIPAL AGENT

Provide information regarding your principal agent on the application form. If principal agent is also a new applicant, licenses for the agency and principal agent will be issued together when requirements for both licenses have been met.

If Principal Agent is inactive, attach a letter requesting reactivation, fee of \$140, (\$20 reactivation + \$120 renewal) and letter of employment from the agency.

SURETY BOND

For an employment agency that collects fees from applicants, have your insurance company complete the attached bond form. **Attach** completed bond form to your application.

Note: Only commercial employment agencies **that collect fees from applicants** are required to post the \$5,000 statutory bond. Indicate your agency's status on the application form.

CONTRACT AGREEMENT

Attach two (2) copies of the applicant's contract agreement. Upon approval of the agreement, one copy will be sent back to you. See Hawaii Administrative Rules, Title 16, Chapter 108, Subchapter 9 for content requirements.

SCHEDULE OF PLACEMENT FEES

Attach two (2) copies of the "*Schedule of Placement Fees*." Upon approval of the schedule, one copy will be sent back to you. See Hawaii Administrative Rules, Title 16, Chapter 108, Subchapter 9 and 12 for content requirements.

EMPLOYMENT RECORD

Attach on a separate sheet, the business or occupation of the applicant, officers and directors of a corporation, partners or managers, for the preceding 3 years.

MAILING ADDRESS

Mail all required items to:

Commercial Employment Agencies
DCCA, PVL, Licensing Branch
P.O. Box 3469
Honolulu, Hawaii 96801

or

Deliver to office location at:

1010 Richards St., 1st Floor
Honolulu HI 96813
Phone: (808) 586-3000

Incomplete applications will not be accepted.

BRANCH OFFICE

An employment agency is no longer required to have separate licenses for each branch office.

GENERAL INFORMATION:

ABANDONMENT OF APPLICATION

Applications are kept for only two years after filing, after which the Department may destroy applications. Therefore, applicants must complete all licensure requirements within two years of filing the application with the Department. Licensure requirements also include payment of all fees.

LAWS & RULES PUBLICATION

To obtain a copy of the laws, Chapter 373, HRS, and rules, Chapter 108, HAR, relating to commercial employment agencies, send \$1.25 to: *Cashier, Commerce and Consumer Affairs, P.O. Box 541, Honolulu, Hawaii 96809.* (Price subject to change without notice). Chapter 436B, Hawaii Revised Statutes, the Professional and Vocational Licensing Law may be purchased separately for 75¢.

The LAWS are RULES are posted on our website at: www.state.hi.us/dcca. Look under "Obtaining information".

MAINTENANCE OF LICENSE

An employment agency is required to have in its employ a currently licensed principal agent. An employment agency **that collects fees from applicants** is required to have a current bond in force at all times.

You are required to keep the department informed of any address changes, change of officers, or change of principal agent.

BIENNIAL RENEWAL

All licenses, regardless of issuance date, are subject to renewal by June 30 of **even-numbered** years. If you have not received a renewal notice 30 days prior to the expiration date printed on your license card, write to us at the address printed above or call (808) 586-3000.

APPLICANTS ARE SUBJECT TO
REQUIREMENTS IN EFFECT AT
TIME OF FILING.

This material can be made available for individuals with special needs. Please call the Licensing Branch Manager at (808) 586-3000, to submit your request.

APPLICATION FOR LICENSE - EMPLOYMENT AGENCY

Please read the "Requirements for License – Employment Agency"

Name of Applicant(Sole owner: First-Middle-LAST; or give name of corporation; partnership, LLC or LLP):

Trade Name (if one will be used):

Hawaii Business Address (Include suite no., city, state & zip code):

Mailing Address (ONLY if different from above):

Social Security No.

Phone No. (days)

General Excise Tax No. (Issued by the State Dept. of Taxation):

INDIVIDUAL
APPLICANT

Residence Address of Applicant who is applying as a Sole Owner:

Residence Phone No.

FOR OFFICE USE

AGENCY
STATUS

PRINCIPAL
AGENT

BUSINESS
ENTITY

Approved Contract & Schedule sent:

Date Effective

License No.
EMA -

Indicate the agency's status:
[] Employer – paid fee agency
[] Applicant – paid fee agency
[] Both

Name of Principal Agent

License No. of Principal Agent or Date Agent Passed the exam

Indicate the type of BUSINESS ENTITY:

- [] Individual (sole owner)
- [] Corporation
- [] Partnership
- [] LLC
- [] LLP

CORPORATION, PARTNERSHIP, LLC or LLP

Names

Residence Addresses
(Include Apt. #, City, State & Zip Codes)

Residence
Phone Nos.

Social
Security Nos.

President, Partner, or Manager

Vice-President, Partner, or Manager

Secretary, Partner, or Manager

Treasurer, Partner, or Manager

Manager or Partner

CONTINUED ON BACK

App..... 226..... \$50
Reg..... 228..... \$60
CRF..... 223..... \$35/\$70
½ Ren..... 220..... \$50
Service Fee..... BCF \$15

Employment Agency License Application

Circle or underline answers; and, give details if required:

- 1)

Has the applicant, any officers of the corporation, partners or managers ever been associated in any capacity in the operation or business of an employment agency?

YES

NO
- 2a)

Has the applicant, any officers of the corporation, partners or managers ever had any license or permit revoked, suspended or otherwise subject to disciplinary action?

YES

NO
- b)

Is any disciplinary action pending or any license being investigated?

YES

NO
- 3)

In the past 20 years has the applicant, any officers of the corporation, partners or managers ever been convicted of a crime in which the conviction has not been annulled or expunged?

YES

NO
- 4)

Will the agency's business be conducted in connection with any other business?

YES

NO
- 5)

Did you respond "yes" to any questions?

YES

NO
- EXPLAIN ANY "YES" RESPONSES ON A SEPARATE SHEET.

AFFIDAVIT OF APPLICANT:

I certify that the answers and statements contained in this application and the documents attached are true and correct. I understand that misrepresentation is grounds for refusal or subsequent revocation of license (Section 710-1017, Hawaii Revised Statutes).

Date

Signature of Applicant

Print Your Name

Title (owner, president, partner, manager)

EMPLOYMENT AGENCY BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, _____ State of Hawaii, as Principal, and _____, a corporation organized and existing under the laws of the State of Hawaii, as Surety, are held and firmly bound unto the Director of Commerce and Consumer Affairs for the State of Hawaii and the Director's successors in office, as Obligee, in the penal sum of Five Thousand dollars (\$5,000.00) good and lawful money of the United States of America, for the payment of which to the said Obligee, well and truly to be made, we do hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE AS FOLLOWS:

That, whereas the above bounden Principal has applied for a registration to engage in business as a Commercial Employment Agency in the State of Hawaii, as provided in Chapter 373, Sections 1-20 of the Hawaii Revised Statutes as amended;

NOW, THEREFORE, if the above bounden Principal shall fully and faithfully comply with the provisions of said Chapter 373, Hawaii Revised Statutes, as amended, and shall faithfully and truly refund all fees illegally or incorrectly obtained or collected from an applicant upon order of the Director or the Director's authorized representative then this obligation shall be void, otherwise to remain in full force and effect.

AND, the period which this bond is to cover shall be from _____, 20____ to _____, 20____. If the bond is continuous in nature, the premium shall be paid on _____ of each respective year.

AND the Surety, herein named, may cancel this bond by giving thirty (30) days notice in writing to the Principal and the Obligee and shall thereafter be relieved of any liability of any breach of condition occurring after the effective date of cancellation.

IN WITNESS WHEREOF, we, the said Principal and the said Surety have hereunto set our hands and seals this _____ day of _____, 20____.

Subscribed and sworn to before me
this _____ day of _____, 20____

PRINCIPAL

Notary Public, State of _____
My commission expires: _____

BY _____

Title _____

Subscribed and sworn to before me
this _____ day of _____, 20____

SURETY

Notary Public, State of _____
My commission expires: _____

BY _____

Title _____

LICENSING BRANCH
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

To receive confirmation of your license, fill in your name and mailing address in the block below on the "Notice of Registration" form. This confirmation will take about 3 weeks to process. The license card will take about 6 weeks to process.

NOTICE OF LICENSURE

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

This is authorization to act as an EMPLOYMENT AGENCY until such time that a license is processed.

THIS AUTHORIZATION IS VALID ONLY WHEN SIGNED BY THE EXECUTIVE OFFICER OF THE BOARD OR PROGRAM.

Fill in Name and Complete Mailing Address in Block Below:

LICENSE NO. EMA-_____

EFFECTIVE DATE _____

EXPIRATION DATE _____ 6/30/_____

Executive Officer